

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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REED CONSTRUCTION DATA INC.,	: Case No. 09-cv-8578 (JPO)
	: :
Plaintiff,	: <u>ORDER AND JUDGMENT</u>
	: :
v.	: :
	: :
THE MCGRAW-HILL COMPANIES, INC.;	: :
	: :
Defendant.	: :
-----X	

AND NOW, this 20th of October, 2014, upon consideration of the Court's September 14, 2010 Opinion, which granted Defendant McGraw Hill Financial, Inc.'s (formerly known as The McGraw-Hill Companies, Inc.) ("McGraw Hill") motion to dismiss Plaintiff Reed Construction Data Inc.'s ("RCD") claims under New York General Business Law Section 349 and the Racketeer Influenced and Corrupt Organization Act ("the September 14, 2010 Order") [dkt. 35], and further upon consideration of the Court's September 24, 2014 Opinion and Order, which, among other things, granted McGraw Hill's motion for summary judgment as to all of RCD's remaining claims except for RCD's unfair competition claim ("the September 24, 2014 Order") [dkt. 215], and further upon consideration of the parties' Stipulated Order Dismissing Reed Construction Data's Unfair Competition Claim and McGraw Hill's Counterclaims [dkt. 218], and all claims having been resolved by this Court, it is hereby ORDERED that:

1. The unfair competition claim asserted by RCD is voluntarily DISMISSED without prejudice pursuant to F.R.C.P. 41(a). That claim may be reinstated only if the United States Court of Appeals for the Second Circuit reverses, vacates, or remands in whole or in part either the September 14, 2010 Order or the September 24, 2014 Order and may be asserted only in this Court in connection with this action. If RCD fails to seek reinstatement of its unfair

competition claim within 30 days of the Second Circuit's mandate, the dismissal will be converted to a voluntary dismissal with prejudice. If the Second Circuit does not reverse, vacate, or remand either the September 14, 2010 Order or the September 24, 2014 Order in whole or in part, RCD's unfair competition claim shall be dismissed with prejudice.

2. The counterclaims asserted by McGraw Hill (misappropriation of trade secrets, misappropriation of confidential information, unfair competition, and aiding and abetting breach of fiduciary duty) are voluntarily DISMISSED without prejudice pursuant to F.R.C.P. 41(a). Those claims may be reinstated only if the United States Court of Appeals for the Second Circuit reverses, vacates, or remands in whole or in part either the September 14, 2010 Order or the September 24, 2014 Order and may be asserted only in this Court in connection with this action. If McGraw Hill fails to seek reinstatement of its counterclaims within 30 days of the Second Circuit's mandate, the dismissal will be converted to a voluntary dismissal with prejudice. If the Second Circuit does not reverse, vacate, or remand either the September 14, 2010 Order or the September 24, 2014 Order in whole or in part, McGraw Hill's counterclaims shall be dismissed with prejudice.

3. Judgment is ENTERED in favor of McGraw Hill in accordance with the Court's September 14, 2010 [dkt. 35] and September 24, 2014 Orders [dkt. 215].

4. The Clerk of Court is directed to CLOSE this case.

SO ORDERED.

Dated: October 20, 2014
New York, New York



J. PAUL OETKEN
United States District Judge